

## **DRACUT ZONING BOARD OF APPEALS**

### **Meeting Minutes of March 24, 2016 at 7:00 p.m. @ Dracut Town Hall Selectmen's Meeting Room, 62 Arlington Street, Dracut.**

**Continued BOA 2016-3 @ 1656 Mammoth Road** – Applicant seeks a variance of the minimum frontage requirement. Parcel A's frontage is 127.40 feet, which is 47.6 feet under the minimum requirement of 175 feet, as set forth in the Table of Standard Dimensional Requirements, Town of Dracut Zoning By-Laws, Section 2.12.50 for R1. Petitioner: Paul Moran Sr., by his attorney, Roberto L. Di Marco, Esq.

Chairman Crowley appeared before the Planning Board last night to ask what the opinion was when they approved the ANR Plan with the notation "Not a Buildable Lot". This is standard procedure when a lot on the plan does not meet the requirements.

Attorney DiMarco feels the petitioner's request is reasonable based on the size of the lot. Mr. Hamilton was given time to read the minutes of the last meeting and the attorney's narrative.

After reviewing, he signed the attached missed hearing form.

Attorney DiMarco stated that there is absolutely no intention for any further division of this property at any time in the future and would be willing to allow that to be a condition.

**Abutters: Who came forward in favor or in opposition?** None.

A motion to close was made by Mr. Lussier and seconded by Ms. Santiago-Hutchings. The Board voted unanimously to close.

A motion to approve the Variance was made by Mr. Stephen Hamilton and seconded by Ms. Heather Santiago-Hutchings. Mr. Hamilton noted there is more than enough acreage. It is an odd shaped lot short of a little frontage. Mr. Crowley noted that the plans shall be marked to show no further subdivision allowed. He also noted that the hardship was created by the petitioner. The Board finds the petitioner meets the requirements of a Variance as follows: that there is a hardship on the use of the land based on the soil conditions, shape or topography, this requested use does not derogate from the intent of the zoning by-law, and it is not injurious to the neighborhood. Those voting in favor were Mr. John Crowley, Mr. Stephen Hamilton, Ms. Heather Santiago-Hutchings and Mr. Brian Lussier with Mr. Richard Ahern voting opposed. The motion passed on a four (4) to one (1) vote.

**Continued BOA 2016-4 @ 125 Forest Park Road** – Appeal of the Building Inspector's decision dated 1/7/16; failure to issue a building permit. Petitioner: Nikolaos E. and Stavroula Manolis. Chairman Crowley opened the meeting. He asked Attorney Malonis if he had anything else to add. Attorney Malonis feels he has covered all the material that he wanted to present.

Mr. Hamilton was given time to review the minutes and the information presented at the previous meeting. After reviewing, he signed the attached missed hearing form.

Mr. Ahern questioned the size of the home that would be built. The home will be of a similar size of the existing neighborhood.

Mr. Hamilton questioned if a variance would be needed for the insufficient frontage. Chairman Crowley explained the frontage would be sufficient if it is a grandfathered lot. A variance would not be needed as was noted on the plot plan.

Chairman Crowley asked Mr. McLaughlin if he had anything else to add. Mr. McLaughlin has nothing more to add.

A motion to close was made by Mr. Lussier and seconded by Mr. Hamilton. The Board voted unanimously to close.

A motion to Overturn the Decision of the Building Inspector and issue a building permit was made by Mr. Brian Lussier and seconded by Mr. Richard Ahern. Those voting in favor were Mr. John Crowley, Ms. Heather Santiago-Hutchings, Mr. Brian Lussier and Mr. Richard Ahern with Mr. Stephen Hamilton voting opposed. The motion passed on a four (4) to one (1) vote.

**2016-5 & 6 @ 14 Pinehurst Avenue** – Special Permit 2.16.25 and Variance 2.12.50 for proposed addition with insufficient setbacks. Petitioner: Susan M. Silva.

Chairman Crowley opened the meeting and signed in a set of prints drawn by James D. Aho, Professional Land Surveyor dated February 15, 2016.

Ms. Silva passed out a packet of drawings showing the proposed addition. She would like to put an addition on her house, but needs a variance for an insufficient setback.

Mr. Hamilton noted that a variance was needed for the rear yard setback of 29.6 feet to the proposed deck and the stairs off the deck at 25.6 feet.

There was a discussion about the shed at the rear property line that does not meet the setback requirement. Ms. Silva said the shed has been there for 15 years and is 3 feet off the lot line. Chairman Crowley noted the Board would not grant a variance for the shed. A shed needs a setback of 10 feet. This will be up to the Building Inspector to make a determination on.

Chairman Crowley noted this is a single family home and will remain the same.

Mr. Hamilton questioned the size of the existing home and addition. Ms. Silva stated the existing home is two (2) stories, the proposed addition will be two (2) stories and the roof lines to remain the same.

**Abutters: Who came forward in favor or in opposition?** None.

A motion to close was made by Mr. Hamilton and seconded by Mr. Lussier. The Board voted unanimously to close.

A motion to approve the Special Permit was made by Mr. Stephen Hamilton and seconded by Ms. Heather Santiago-Hutchings. The Board finds that the petitioner meets the following three requirements of the Special Permit: that the change does not (1) substantially impinge upon any public right of way that adjoins the lot on which the structure is to be constructed; (2) create a danger to public safety by reason of traffic access, flow and circulation; and (3) be out of character with the traditional settlement and construction patterns of the area in which it is to be reconstructed. The Board voted unanimously to approve.

A motion to approve the Variance with the understanding that the Variance is for the building as shown on the plan with the deck edge 29.6 feet from the lot line and another allowance for the impingement by stairs going 25.6 feet off the lot line. No other structures past the 29.6 feet other than the stairs was made by Mr. Stephen Hamilton and seconded by Mr. Brian Lussier. Chairman Crowley explained that Mr. Hamilton has

specifically, by that language, excluded the shed from this variance. Mr. Hamilton stated the shed is not even being under consideration. This is a single family home and will remain the same. The petitioner has stated the roof line will be roughly equivalent to what the existing structure is. The variance granted is not for any other structures other than the house, deck and stair and exclude any sheds or ancillary buildings that might be shown on the drawing. The Board finds the petitioner meets the requirements of a Variance as follows: that there is a hardship on the use of the land based on the soil conditions, shape or topography, this requested use does not derogate from the intent of the zoning by-law, and it is not injurious to the neighborhood. The Board voted unanimously to approve.

**2016-7 @ 51 First Street** – Appeal of the Building Inspector’s decision dated 2/4/16.

Petitioner: Lillian Amann.

Chairman Crowley opened the meeting.

Mrs. Amann stated she purchased Lots 57 & 58 in 1973 with a building on it and in 1981 purchased the next door Lots 59 & 60 with a building on it from the town for taxes. She produced separate bills for sewer, electric, gas and stating it is being taxed as a two family. The land at the time was zoned as farming. She got a building permit in 1985 for a 20’x26’ addition. Since the two buildings were so close together, she was told by the Building Inspector at the time that she could join them together. There was further discussion for clarification.

Mr. McLaughlin, Building Inspector passed out the attached packet of information as follows:

- Aerial drawing of property.
- Notarized document dated April 13, 1998 stating Lillian Amann has maintained the house as a duplex since 1986.
- Mr. McLaughlin’s letter dated February 4, 2016 ordering the return of the property to its proper use as a single family home. Chairman Crowley read the letter.
- Mr. McLaughlin’s letter dated March 21, 2014 regarding an illegal apartment on the second floor left side and questioning the status of the duplex. Chairman Crowley read the letter.
- Building Permit 85-403 dated January 7, 1986 for a 20’x26’ addition for a living and storage room.
- Plot Plan dated July 2, 1980 by William G. Troy, Registered Land Surveyor.
- Letter dated April 16, 1998 from Mr. Gaudette, Inspector of Buildings that Mrs. Amann has a legal non-conforming structure and use.

Mrs. Amann stated she rented out a room in her side of the duplex referenced in the March 21, 2014 letter. Mr. McLaughlin noted in 2014 she promised not to rent out the space. It consists of a kitchen, bathroom and bedroom with a very rickety pair of stairs leading to it. He would like the third apartment gone. He has never been in the duplex. Mr. McLaughlin would be willing to delay action on the duplex to a later time, but get rid of the apartment and return to a single family on her side. Mr. Hamilton is concerned about deferring in case the house is sold as a two family noting, the deferred action in 2014 when she promised not to rent the apartment. The property was zoned as general residence until 1986 then changed to single family.

Mr. Lussier noted that Mr. Gaudette felt it was a duplex per his letter in 1998. There is no way to know what his opinion was based on.

There were various sewer, gas and electric permits in the Building Office file, but no permit for the third apartment. There is only one means of egress from the apartment. Mrs. Amann produced a building permit dated May 4, 1978 for a 20'x20' addition for two bedrooms upstairs. There was a discussion about the two building permits for additions. This one and the one in 1986. Mr. McLaughlin noted that this is the first time he heard about there being two houses on the lot.

There was also a letter dated May 20, 2003 from Frank Polak, Building Commissioner requesting a site visit questioning the two gas and electric meters he observed. There was no further action taken as he left the town.

Mr. McLaughlin noted he has been looking into this issue since 2004. Mr. Hamilton was given time to review the Building Inspector's file on the property. He noted various items he found.

Mr. Lussier noted in looking at the plan of the lot and layout it does not appear on how there were two buildings on two separate lots that were combined and added on to. Chairman Crowley reviewed the March 8, 1982 Special Permit from the Board of Appeals to operate a telephone business in her home and granted for a period of two years. He observed that the Plot Plan submitted dated July 2, 1980 shows one dwelling on a 6,400 square foot lot. This drawing is confusing as it shows the entire lot. Mrs. Amann stated she purchased the lot next door in 1981. The first lot she owned was 3,200 square feet, then she bought another lot which was 3,200 square feet for a total of 6,400 square feet. The drawing she submitted in 1982 shows one dwelling on the western half of a 6,400 square foot lot.

Mrs. Amann stated it wasn't zoned R1 until 2012. Chairman Crowley noted it changed in R1 zoning 1987. Mrs. Amann stated that according to the internet it changed 2012. It was zoned farming area up until that time. Chairman Crowley said no it was not.

**Abutters: Who came forward in favor or in opposition?** None.

A motion to close was made by Mr. Lussier and seconded by Mr. Hamilton. The Board voted unanimously to close.

A motion to Uphold the Decision of the Building Inspector was made by Mr. Stephen Hamilton and seconded by Mr. Richard Ahern. Mr. Lussier confirmed that the third apartment is gone as it should never have been there and is not sure if he believes the original story of how the dwelling became a duplex to begin with. It is not a well-traveled road, certainly things could be done and the Building Inspector would probably not be by to see them if they didn't call for inspections. Chairman Crowley thinks this has been brought up several times and the petitioner has just ignored the direction of the Building Inspector. This needs to stop and come to a resolution. Mr. Hamilton noted he has seen the whole record and he has seen nothing to substantiate overturning the decision of the Building Inspector. Chairman Crowley does not find that either and the evidence presented tonight does not warrant overturning his decision in this case. The Board voted unanimously to Uphold the Decision of the Building Inspector.

**Acceptance of Minutes:**

A motion to accept the February 25, 2016 minutes was made by Mr. Stephen Hamilton and seconded by Ms. Heather Santiago-Hutchings. The Board voted unanimously to accept the minutes.

**New Business:**

None.

**Next Meeting:**

Thursday, April 28, 2016.

**Adjournment:**

A motion to adjourn was made by Mr. Stephen Hamilton and seconded by Ms. Heather Santiago-Hutchings. The Board voted unanimously to adjourn.

**Board of Appeals Members**

<u>Chairman, John Crowley</u>	<u>Absent</u> Vice Chairman, R. Scott Mallory
<u>Clerk, Stephen Hamilton</u>	<u>Member, Heather Santiago-Hutchings</u>
<u>Member, Brian Lussier</u>	<u>Alternate Member, Richard Ahern</u>
<u>Absent</u> Alternate Member, Scott McKiel	